

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #7	CCRB Case #: 201809255	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/05/2018 8:00 PM	Location of Incident: [REDACTED]	Precinct: 52	18 Mo. SOL 5/5/2020	EO SOL 12/20/2020	
Date/Time CV Reported Tue, 11/06/2018 1:57 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 11/06/2018 1:57 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Ariel Eusebio	19648	958565	052 PCT
2. POM Brian Vanduzer	02650	955618	052 PCT
3. POM Pedro Lezcano	17113	959752	052 PCT
4. Officers			

Officer(s)	Allegation	Investigator Recommendation
A.POM Ariel Eusebio	Abuse: Police Officer Ariel Eusebio stopped § 87(2)(b)	[REDACTED]
B.POM Ariel Eusebio	Abuse: Police Officer Ariel Eusebio searched § 87(2)(b)	[REDACTED]
C.POM Pedro Lezcano	Abuse: Police Officer Pedro Lezcano stopped § 87(2)(b)	[REDACTED]
D.POM Pedro Lezcano	Abuse: Police Officer Pedro Lezcano interfered with § 87(2)(b)'s use of a recording device.	[REDACTED]
E.POM Pedro Lezcano	Force: Police Officer Pedro Lezcano used physical force against § 87(2)(b)	[REDACTED]
F.POM Pedro Lezcano	Abuse: Police Officer Pedro Lezcano frisked § 87(2)(b)	[REDACTED]
G. Officers	Abuse: Officers frisked § 87(2)(b)	[REDACTED]
H.POM Ariel Eusebio	Abuse: Police Officer Ariel Eusebio failed to provide § 87(2)(b) with a business card.	[REDACTED]
I.POM Ariel Eusebio	Abuse: Police Officer Ariel Eusebio failed to provide § 87(2)(b) with a business card.	[REDACTED]
J.POM Pedro Lezcano	Abuse: Police Officer Pedro Lezcano failed to provide § 87(2)(b) with a business card	[REDACTED]
K.POM Pedro Lezcano	Abuse: Police Officer Pedro Lezcano failed to provide § 87(2)(b) with a business card	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On November 6, 2018, § 87(2)(b) filed this complaint online at the CCRB website via email.

On November 5, 2018, at approximately 8:00 p.m., in the vicinity of § 87(2)(b) in the Bronx, § 87(2)(b) and his friend, § 87(2)(b) were stopped by three plainclothes officers, identified by the investigation as Police Officer Ariel Eusebio, Police Officer Pedro Lezcano, and Police Officer Brian VanDuzer of the 52nd Precinct, in an unmarked vehicle. PO Eusebio exited the vehicle and allegedly said, “I’m a cop,” and asked § 87(2)(b) what was in his pockets (**Allegation A and B: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) took out his phone and began to record. PO Lezcano exited the vehicle, approached § 87(2)(b) and said, “Take that out of my face” (**Allegation C and D Abuse of Authority, § 87(2)(g)**). PO Lezcano then allegedly slapped § 87(2)(b) s right hand and attempted to pull § 87(2)(b) s phone from him (**Allegation E: Force, § 87(2)(g)**). PO Lezcano then moved § 87(2)(b) against a gate and allegedly frisked him (**Allegation F: Abuse of Authority, § 87(2)(g)**). Officers allegedly frisked § 87(2)(b) (**Allegation G: Abuse of Authority, § 87(2)(g)**). The officers did not provide § 87(2)(b) or § 87(2)(b) with RTKA cards at any point during this interaction (**Allegation H, I, J, and K, § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

There is no video evidence regarding this complaint.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Ariel Eusebio stopped § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Ariel Eusebio searched § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Pedro Lezcano stopped § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Pedro Lezcano interfered with § 87(2)(b)

§ 87(2)(b) s use of a recording device.

Allegation (E) Force: Police Officer Pedro Lezcano used physical force against § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Pedro Lezcano frisked § 87(2)(b)

Allegation (G) Abuse of Authority: Officers frisked § 87(2)(b)

§ 87(2)(b) (Board Review 01) testified that he and § 87(2)(b) were walking home from a friend’s house when an unmarked grey vehicle pulled in front of them. § 87(2)(b) initially stated the vehicle was an SUV but later confirmed that it was a sedan. PO Eusebio, identified by § 87(2)(b) during a photo viewing as the officer who exited from the passenger’s side of the vehicle and said, “I’m a cop” (Board Review 09). PO Eusebio then said, “What’s in your pocket?” to § 87(2)(b) and § 87(2)(b) removed headphone from his front left jacket pocket. § 87(2)(b) took out his phone and began to record the incident. PO Lezcano, whom § 87(2)(b) described as a Hispanic male in his early 20’s, 5’9” tall, with a medium build, and PO VanDuzer, whom § 87(2)(b) described as a white male in early in his late 30’s/early 40’s, 5’9” tall, with short brown hair and a muscular build, approached. § 87(2)(b) continued to record. PO Lezcano slapped the outside of § 87(2)(b) s right hand. § 87(2)(b) held onto his phone. PO Lezcano

then attempted to pull the phone out of § 87(2)(b)'s hand but § 87(2)(b) held onto it. In the same motion, PO Lezcano took hold of § 87(2)(b)'s right arm, turned him around, and moved him so that he was chest-first against a school gate. PO Lezcano then spread § 87(2)(b)'s legs apart and patted him down, sweeping his hands along both legs and patting down the left and right sides of § 87(2)(b)'s jacket. § 87(2)(b) told the officers that their actions constituted harassment. PO VanDuzer told § 87(2)(b) that he did not know what harassment meant. § 87(2)(b) explained that his brother, § 87(2)(b) was § 87(2)(b). PO Eusebio asked § 87(2)(b) to call his brother. § 87(2)(b) called § 87(2)(b) 7(2) and handed the phone to PO Eusebio. PO Eusebio walked away from § 87(2)(b) and did not hear this conversation. PO Eusebio then returned § 87(2)(b)'s phone to him and said that he and § 87(2)(b) could now return home. § 87(2)(b) told § 87(2)(b) that the officers had only been doing their job. § 87(2)(b) and § 87(2)(b) were not provided with a business card. § 87(2)(b) did not have the video of the incident because he accidentally deleted it before it was saved.

§ 87(2)(b) (Board Review 02) provided a phone statement. § 87(2)(b) did not wish to further participate in the CCRB investigation. § 87(2)(b)'s statements were generally consistent with those of § 87(2)(b) except that § 87(2)(b) recalled four officers being present at the time of the incident instead of three. § 87(2)(b) acknowledged carrying Beats headphones in his left sweatshirt pocket which were protruding out. PO Eusebio asked § 87(2)(b) what was in his pockets and § 87(2)(b) responded, "It's Beats." PO Eusebio asked § 87(2)(b) what was in his pockets again and § 87(2)(b) removed the headphones from his pocket. Two officers patted down § 87(2)(b) and two officers patted down § 87(2)(b) could not recall which officer did what and could not describe the officers who frisked him. Three officers moved § 87(2)(b) to a fence while PO VanDuzer stood with § 87(2)(b) and said, "What are you gonna do? You gonna do something?" § 87(2)(b) described PO VanDuzer as a white male. After PO Eusebio called § 87(2)(b)'s brother on § 87(2)(b)'s phone, he gave § 87(2)(b) his phone back and § 87(2)(b) began to cry because it appeared as if his brother defended the officers. § 87(2)(b) did not receive a business card.

§ 87(2)(b) (Board Review 03) provided a phone statement on November 13, 2018. He received a phone call from his brother, § 87(2)(b) on November 5, 2018. A male police officer gave his shield number and last name to § 87(2)(b) which § 87(2)(b) could not remember but stated that his last name was Hispanic. The officer on the phone told § 87(2)(b) that he was assigned to the 52nd Precinct Anti-Crime team. The officer informed him that § 87(2)(b) had been stopped because he was walking with a group of friends and the officer observed something protrude from § 87(2)(b)'s pockets. He told § 87(2)(b) that § 87(2)(b) was being disrespectful.

The 52nd Precinct roll call for tour 3 on November 5, 2018, revealed that five officers had been assigned to Anti-Crime that day (Board Review 04). Three of the officers, PO Eusebio, PO VanDuzer, and PO Lezcano were partnered together, assigned to a grey Ford Sedan, and matched the descriptions provided by § 87(2)(b) viewed a photo array and identified PO Eusebio as the officer who asked § 87(2)(b) to remove his headphones from his person. PO Eusebio is § 87(2)(b) (Board Review 05). PO VanDuzer is § 87(2)(b)

§ 87(2)(b) (Board Review 06). PO Lezcano is § 87(2)(b) (Board Review 07). All three of the officers were interviewed.

PO Eusebio (Board Review 08), PO Lezcano (Board Review 11) and PO VanDuzer (Board Review 10), did not recall the incident at all. During their interviews, each officer was shown a photo of § 87(2)(b) and none of them recognized him. None of the officers could account for anything they did or anywhere they were on November 5, 2018. The officers did not make any memo book entries at all on November 5, 2018, aside from when they were present for duty and the end of their tour.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (H) Abuse of Authority: Police Officer Ariel Eusebio failed to provide § 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: Police Officer Ariel Eusebio failed to provide § 87(2)(b) with a business card.

Allegation (J) Abuse of Authority: Police Officer Pedro Lezcano failed to provide § 87(2)(b) with a business card.

Allegation (K) Abuse of Authority: Police Officer Pedro Lezcano failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) and § 87(2)(b) did not receive business cards or any sort of documentation at any point during the incident.

NYPD Patrol Guide, Procedure 203-09 states that to ensure uniformed members of the service interact with members of the public in a professional manner, a business card is to be offered for a law enforcement activity, except in cases when a summons is issued or an arrest is made (Board Review 12).

§ 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB histories

- This is the first complaint to which § 87(2)(b) has been a party (Board Review 17)
- This is the first complaint to which § 87(2)(b) had been a party (Board Review 18)
- PO Eusebio has been a member-of-service for three years and has been the subject in four complaints and 24 allegations, one of which was substantiated.
 - CCRB Case 201708315 involved a substantiated allegation of a frisk against PO Eusebio. The board recommended Command Discipline B and the NYPD imposed Command Discipline A. (Board Review 17).
- PO Lezcano has been a member-of-service for three years and has been a subject in two complaints and 13 allegations all of which are currently under investigation.
- PO VanDuzer has been a member-of-service for five years and has been a subject in four complaints and four allegations, none of which have been substantiated. § 87(2)(g)
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Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b) was not offered mediation as he chose not to participate in the investigation.

